

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:13-cv-00239-MR**

PHYLLIS W. PENLAND,)
)
Plaintiff,)
)
vs.) **ORDER OF REMAND**
)
CAROLYN W. COLVIN, Acting)
Commissioner of Social Security)
Administration,)
)
Defendant.)
)

)

THIS MATTER is before the Court on the Defendant's Unopposed Motion for Entry of Judgment under Sentence Four of 42 U.S.C. § 405(g) with Reversal and Remand of the Cause to the Defendant [Doc. 13]. The Plaintiff consents to the motion.

Sentence four of 42 U.S.C. § 405(g) provides, in pertinent part, that "[t]he court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." The Defendant here has moved for reversal of her decision and for remand of this case for further administrative proceedings.

The Court finds that remand is appropriate. See Melkonyan v. Sullivan, 501 U.S. 89 (1991). Upon remand, the Appeals Council shall instruct a different Administrative Law Judge to: find that Plaintiff's migraines are a severe impairment, as defined in 20 CFR § 404.1521, for at least 12 consecutive months during the period at issue; evaluate the impact of Plaintiff's obesity on her residual functional capacity in accordance with Social Security Ruling 02-1p; reassess Plaintiff's residual functional capacity and provide rationale for the assessed limitations (20 § CFR 404.1545 and Social Security Rulings 96-8p); and obtain supplemental vocational expert evidence at step five (20 CFR § 404.1566 and Social Security Rulings 83-14 and 00-4p).

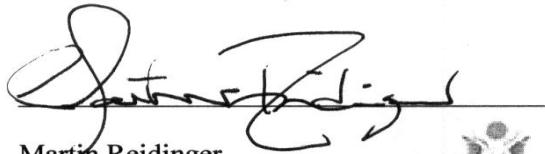
IT IS, THEREFORE, ORDERED that the Defendant's Unopposed Motion for Entry of Judgment under Sentence Four of 42 U.S.C. § 405(g) with Reversal and Remand of the Cause to the Defendant [Doc. 13] is **GRANTED**.

IT IS FURTHER ORDERED that the decision of the Commissioner of Social Security is hereby **REVERSED** and this case is hereby **REMANDED** for further administrative proceedings, consistent with this Order.

The Clerk of Court shall enter a separate Judgment of Remand simultaneously herewith, thereby closing the case.

IT IS SO ORDERED.

Signed: May 8, 2014



Martin Reidinger
United States District Judge

